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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,263	10/28/2003	Jung Kook Lee	13060-02USA	6512
35736	7590	01/11/2006	EXAMINER	
JHK LAW P.O. BOX 1078 LA CANADA, CA 91012-1078			LIEU, JULIE BICHNGOC	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/696,263	LEE, JUNG KOOK	
	Examiner	Art Unit	
	Julie Lieu	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed October 25, 2005.

Claim 20 has been amended. No claims have been canceled or added.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

1. Claims 1-4, 7, and 11-15 are again rejected under 35 U.S.C. 102(e) as being anticipated by Teller (US Patent No. 2002/0013538).

Claim 1:

Teller discloses a health monitoring device comprising:

- a. a skin temperature sensor 102 connected to a microprocessor 114 for mathematically converting the sensed temperature to corrected skin temperature (see para. [0069] and [0073]);
- b. a movement sensor (para. [0119]);
- c. a display screen 112; and
- d. a means 202 for communicating with a computer.

Claim 2:

Teller discloses using a humidity sensor indirectly from the Internet. Para. [0073].

Claim 3:

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The device in Teller is shaped as a band. Para. [0055].

Claim 4:

Teller suggests that the device could be used on a baby's appendage. Para [0119].

Claim 7:

The computer in Teller is connected to a web server so as to be in communication with other computers at home or at hospital. See [0073],

Claim 11:

Teller discloses a chart comprising corrected skin temperature profile over a set time period. Para. [0073].

Claim 12:

The chart in Teller comprises ambient temperature profile over the set time period. Para. [0073].

Claim 13:

Teller implicitly discloses a chart comprising movement profile over the set time period. Para. [0073] and [0119].

Claims 14 and 15:

The chart in Teller is display on a solid medium, which is display screen 112.

Claim Rejections - 35 USC § 103

2. Claims 5, 6, 8-10, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teller (US Patent No. 2002/0013538).

Claims 5-6:

Teller discloses connecting to a computer a home comprising software to communicate with the device. See para. [0062]. Though a repeater is not particularly disclosed, it would have been obvious to one skilled in the art to use a repeater at the home computer because the use of a repeater in a computer system, e.g. wireless internet connection device, to receive signal is conventional in the art.

Claim 8:

Teller discloses a method of facilitating determination of health of a baby comprising providing instructions that comprise simultaneously monitoring corrected skin temperature of the baby, monitoring ambient temperature surrounding the baby, and monitoring level of movement of the baby with the device over time; and comparing and analyzing data obtained, wherein presence of high or rising corrected skin temperature compared with substantially level ambient temperature is not healthy. Refer to previously cited paragraphs in the rejection of the apparatus claims.

The reference fails specifically discuss the infrequent movement of the baby. Nonetheless, the reference infers such condition to be detected as it implicitly suggests that undesirable change in the position or movement of the baby factors in as discussed in para. [0119]. In light of this discussion, one skilled in the art would have readily recognized to consider infrequent movements of the baby as a factor to determined an abnormal situation in the Teller monitoring system.

Claim 9:

The instruction disclosed in Teller appears to be in a computer program which inherently in written form.

Claim 10:

The instructions in Teller are transmitted by broadcast.

Claim 16:

Though Teller fails to disclose that the chart is displayed on paper, one of ordinary skill in the art would have readily recognized printing the chart on a piece of paper to for easy examination as preferred by a user.

Claim 17:

The system in Teller compares corrected skin temperature profile, ambient temperature profile, wherein presence of high or rising corrected skin temperature compared with substantially level ambient temperature indicates that the baby is not healthy. The reference fails specifically discuss the infrequent movement of the baby. Nonetheless, the reference infers such condition to be detected as it implicitly suggests that undesirable change in the position or movement of the baby factors in as discussed in para. P0119]. In light of this discussion, one skilled in the art would have readily recognized to consider infrequent movements of the baby as a factor to determined an abnormal situation in the Teller monitoring system.

Claim 18:

The method disclosed in Teller comprises reviewing and analyzing the chart, to determine a pattern of rise or fall in corrected skin temperature, which indicates presence of an infection.

Claim 19:

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Teller discloses a method of monitoring a patient health comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile, and a movement profile of a baby and comparing with an established profile. Paras. [0069], [0073], [0019]. Teller fails to disclose review and analyzing to identify a viral infection pattern. Nonetheless, one skilled in the art would have readily recognized using the same method in identifying a viral infection pattern because a viral infection produces health signs that are related to temperature, and movement of the baby.

Claim 20:

The established profile disclosed in Teller may be provided by a computer at home or computer at hospital, and stored in a common server that links computer at home and computer at hospital.

Claim 21:

Teller discloses a method of identifying a health condition comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile and movement profile of a patient and comparing with an established profile, wherein matching profile indicates early onset of the viral infection. Para. [0069], [0073], [0019]. Teller fails to disclose review and analyzing to identify an early onset of viral infection. Nonetheless, one skilled in the art would have readily recognized using the same method in identifying a early onset of viral infection pattern because a viral infection produces health signs that are related to temperature and movement of the baby.

Applicant's Arguments

3. Applicant has presented the following arguments:

Argument 1:

Regarding the rejection of claim 1, Applicant submits that the sensor unit in Teller is worn by a patient and the sensor unit itself lacks a microprocessor and a display screen; thus, the sensor unit itself alone cannot display the monitored health signs. Applicant has further asserted that the sensor unit of Teller must be connected to a microprocessor and a display screen which are physically separated from the sensor unit to be able to display the monitored signs.

Applicant has stated that the monitoring device of the invention comprises a microprocessor and a display unit in a single unit worn by a baby enabling monitoring of health signs without being connected to any other unit....Therefore Teller fails to disclose or suggest a monitoring device comprising all of the components in a single unit to process and analyze the data as in the presently claimed invention.

Argument 2:

Regarding the rejection of claim 2, Applicant has contended that Teller fails to disclose a device having a "humidity sensor" as in the presently claimed invention.

Argument 3:

Regarding the rejection of claim 11, Applicant has submitted that no disclosure of a chart comprising corrected skin temperature profile over a set time period could be found in Teller.

Argument 4:

Regarding the rejection of 13, Applicant has submitted that no disclosure of any chart in Teller.

Argument 5:

Regarding the rejection of claim 14 and claim 15, Applicant has submitted that Teller fails to disclose or suggest a chart displayed on a display screen.

Argument 6:

Regarding the rejection of claims 5-6, 8-10, and 16-18, Applicant has asserted that Examiner fails to establish prima facie obviousness of the claimed invention.

Response to Applicant's Arguments

4. Applicant's argument have been fully considered but not deemed persuasive.

Response to argument 1:

Examiner submits that the claim elements are met as clearly shown in the rejection. The argument that the sensor unit lacks a microprocessor and a display and is physically separate

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from the microprocessor and display screen is irrelevant because the claims of present invention do not recite that they have to be in one unit. The Applicant's argument is thus not deemed persuasive.

Response to argument 2:

As cited in the rejection, para. [0073] clearly discloses a humidity sensor and other environmental sensor may be used to develop an analysis not only reflects the individual body conditions, but also takes into account environmental factors. Therefore, Applicant's argument is not considered persuasive.

Response to argument 3:

Regarding the rejection of claim 11, Applicant has submitted that no disclosure of a chart comprising corrected skin temperature profile over a set time period could be found in Teller.

The applicant attention is directed to paras. [0069], [0073], and [0146]. The reference implicitly discloses that the monitored patient temperatures are the corrected temperatures [0069] that are monitored over time and analyzed to determine trends [0073]. It is further suggested in the reference that the analysis may comprise graphical analysis, and analysis of detected sound that is displayed in graphical format is one example. Therefore, the combination of the teachings in paragraphs [0069], [0073], and [0146] would lead to the corrected skin temperature profile being trended over a set time period in a chart.

Therefore, Applicant's argument is not persuasive.

Response to argument 4:

Refer to the response to argument 3 as a response to this argument.

Response to argument 5:

Refer to the response to argument 3 as a response to this argument. Furthermore, it is inherent that the chart must be displayed on the display in Teller so that the information can be monitored.

Response to argument 6:

Examiner submits that a prima facie case of obviousness is established when the teachings of the prior art would have appear to have suggested the claimed subject mater to a person of ordinary skill in the art. The combined teachings of the prior art need not provide an absolute prediction of success for the claimed subject matter. Instead only a reasonable likelihood of success is required. (In re Ball Corporation, 18 USPQ 2d 1491).

For the above stated reasons, the rejection is maintained.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a stylized, cursive script.

Julie Lieu
Primary Examiner
Art Unit 2636

Jan 05, 06